REMARKS

This response is intended as a full and complete response to the final Office Action mailed January 2, 2004. In the Office Action, the Examiner notes that claims 10-13, 15-18, and 20-29 are pending, of which claims 10-13, 15-18 and 20-29 stand rejected. By this response, claims 10, 16-17, 21-23, and 28-29 have been amended, claims 11-13, 15, 18, 20, and 24-26 continue unamended, claim 27 has been cancelled, and claims 1-9, 14, and 19 were previously canceled.

In view of the following discussion, the applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, the applicants believe that all these claims are now in allowable form.

It is to be understood that the applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to applicants' subject matter recited in the pending claims. Further, applicants are not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant responsive amendments.

REJECTIONS

35 U.S.C. §103

Claims 10-13, 15-18 and 20-29

The Examiner has rejected claims 10-13, 15-18 and 20-29 as being obvious under 35 U.S.C. §103 over Sahai (U.S. Patent No. 6,594,699, hereinafter "Sahai") in view of Shaw et al. (U.S. Patent No. 6,104,392, hereinafter "Shaw") and Utsumi (U.S. Patent No. 6,195,677, hereinafter "Utsumi"). The Applicants respectfully traverse the rejection.

The Applicants have amended independent claims 10, 17, and 23 to respectively incorporate the features of dependent claims 22, 27, and 29. For example, independent claim 10, as amended, recites:

> " A method of adapting asset delivery within a heterogeneous multimedia video-on-demand distribution system having service provider equipment and at least one set top terminal, comprising the steps of:
> determining at the service provider equipment, for each set top terminal (STT) requesting a session for video content in the

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PAGE 11/17 * RCVD AT 3/2/2004 5:07:20 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:732 530 9808 * DURATION (mm-ss):04-06

> heterogeneous multimedia video-on-demand distribution system, a capability level of said STT and a capability level of the distribution network;
>
>   selecting, from a plurality of available video content and navigational asset versions stored on said service provider equipment, one of said versions of video content and navigational assets appropriate to said capability level of said STT; and
>
>   providing, via at least one of a plurality of transmission channels, said selected video content and navigational assets in response to STT communications indicative of a need for said video content and assets, <u>said navigational assets comprising a plurality of applets, said applets being stored at said service provider equipment, where each applet comprises video information, graphics information, and control information</u>, and wherein said STT being configured to selectively tune, downconvert, and depacketize said video content and assets received via said transmission channels." (emphasis added).

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, <u>considered as a whole</u>, would have been obvious. <u>Jones v. Hardy</u>, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, <u>Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.</u>, 230 U.S.P.Q. 416, 420 (Fed. Cir. 1986). Moreover, the invention <u>as a whole</u> is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 U.S.P.Q. 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). None of the cited references, either singly or in combination, teach or suggest the Applicants' invention <u>as a whole</u>.

In particular, the Sahai reference discloses "it is possible for the server 10, at the time of an initial hit on the home page for a multimedia service, to send or stream an application to the client, such as a JAVA™ applet application In response to the initial HTTP request. However, because of the security features of JAVA which prevent "invasion" of or "snooping-in: the client 12 by a JAVA applet, <u>the application sent by the server to the client is limited to asking (prompting) the user to supply the capability information of the client and asking for user specifications/preferences using specific questions, such as "What is the processor type of your machine?"</u> The returned information can then be stored on the server 10 across multiple invocations of the

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server 10 by the client 12, so that the same questions do not get asked of the user for each request of a new asset." (see Sahai, col. 6, line 57 to col. 7, line 9, (emphasis added)).

Nowhere in the Sahai reference is there any teaching or suggestion of "providing, via at least one of a plurality of transmission channels, said selected video content and navigational assets in response to STT communications indicative of a need for said video content and assets, said navigational assets comprising a plurality of applets, said applets being stored at said service provider equipment, where each applet comprises video information, graphics information, and control information, and wherein said STT being configured to selectively tune, downconvert, and depacketize said video content and assets received via said transmission channels." That is, the Sahai reference fails to teach or suggest that the navigational assets comprise a plurality of applets that include video, graphical, and control information. Rather, the Sahai reference teaches away from the Applicants' invention, since the JAVA applets of Sahai are limited to asking for capability information of the STT. Therefore the Sahai reference fails to teach or suggest the Applicants' invention as a whole.

Furthermore, the Shaw reference fails to bridge the substantial gap as between the Sahai reference and the Applicants' invention. In particular, Shaw merely discloses:

> "In a client-server architecture, an Adaptive Internet Protocol (AIP) system, comprised of a display engine operating on a server and a protocol engine operating on a server, providing means to support standard graphics based computer applications connected to clients of varying capability via a network of varying bandwidth and latency by automatically varying the type and number of graphic requests and their networking encoding to provide near optimum performance while maintaining the correct visual representation." (See Shaw, Abstract)

Nowhere in the Shaw reference is there any teaching or suggestion of "providing, via at least one of a plurality of transmission channels, said selected video content and navigational assets in response to STT communications indicative of a need for said video content and assets, said navigational assets comprising a plurality of applets, said applets being stored at said service provider equipment, where each applet comprises video information, graphics information, and control information." By contrast, the Shaw

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reference discloses "UAP server 250 gathers all objects (applications, documents, etc0 associated with a user and dynamically creates a web page to represent this information. This web page contains smart applets, preferably written in Java programming language, represented as graphical icons (225A-225C). When the user clicks on these smart icons, requests are issued to invoke services or applications or view documents." (see Shaw, col. 8, lines 38-48).

The Applicants note that the JAVA applets discussed in the Sahai and Shaw references are not the same as the applets of the Applicants' invention. It is instructive to clearly understand the definition of an applet. An applet is conventionally understood to mean a small program designed to run within the environment of another program. Common examples of applets are those running within hypertext mark up language (HTML) pages within a window of a browser, such as the Netscape Navigator™ browser. By contrast, and within the context of the subject invention, a specific type of applet is utilized and described beginning on page 10 line 24 to page 11 line 8, where it is stated that:

> "session control commands, such as navigation commands, are implemented by the session controller 145 with the set top terminal 136. Each command is implemented by the execution of an applet by the set top terminal 136. The applet is stored in the provider equipment (e.g., in asset storage module 125), and is transmitted to the set top terminal 136 (via the FDC or FATC) by the session controller 145 in response to requests transmitted by the set top terminal 136 (via the RDC). It is noted that each applet includes links to other applets stored within the provider equipment 102. In this manner, the server-centric topology provides for the conservation of set top terminal memory, processing capabilities and bandwidth.
>
> It should be noted that each applet comprises control information, graphics information and video information. The video information is derived from video asset data, the control information is derived from control asset data, and the graphics information is derived from graphics (and textual) asset data. The video asset data, control asset data and graphics asset data are stored in the asset storage module 125. It will be appreciated by those skilled in the art that such asset data may be stored in other storage means within the information provider equipment 102."

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In contrast to the above quoted language from the specification, and the corresponding claim language in, for example, claim 10, the use of iconic representation in the prior art does not have the same purpose as an applet does. Specifically, an icon is commonly understood to comprise a graphical element or object that may be associated with a sub routine or function. The Shaw reference utilizes an icon in this way. Specifically, upon activation of an icon, a sub routine associated with that icon is executed or, a portion of code associated with that icon is executed. That is, Shaw discloses that when a user clicks on these smart icons, requests are issued to invoke services or application or view documents (see Shaw, col. 8, lines 46-48). There is no particular teaching within the Shaw (or Suhai) reference that states "said navigational assets comprise a plurality of applets, said applets being stored at said service provider equipment, where each applet comprises video information, graphics information, and control information." It is important to note that an icon comprises a graphical element. The subject invention utilizes "graphical objects" within a "graphical layer" that are "associated with respective applets stored in provider equipment," as opposed to the Applicants' invention, which comprises applets including video, graphical and control information.

Further, the Utsumi reference fails to bridge the substantial gap as between the Suhai and Shaw references, and the applicants' invention. In particular, the Utsumi reference is completely devoid of any teaching or suggestion of applets, and more specifically, of "navigational assets comprising a plurality of applets, where the applets are stored at the service provider equipment, and each applet comprises video information, graphics information, and control information." Rather, Utsumi merely discloses a data exchange process that performs a series of processing operations to convert data as an application service into another data in correspondence with the attribute of each terminal or communication infrastructure. (See Utsumi, column 14, lines 48-52 and Figure 2).

Moreover, even if these three references could somehow be operably combined, the combination would merely disclose sending JAVA applets from a server to a client

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device. This is completely different from the applicants' invention. Specifically, the applicants' invention is a multimedia video-on-demand (VOD) system that "provides, <u>via at least one of a plurality of transmission channels</u>, said selected video content and navigational assets in response to STT communications indicative of a need for said video content and assets, <u>said navigational assets comprising a plurality of applets, said applets being stored at said service provider equipment, where each applet comprises video information, graphics information, and control information</u>, and wherein said STT being configured to selectively tune, downconvert, and depacketize said video content and assets received via said transmission channels." Therefore, the combined references fail to teach or suggest the applicants' invention <u>as a whole</u>.

As such, the applicants submit that claim 10 is not obvious and fully satisfies the requirements under 35 U.S.C. §103 as patentable thereunder. Likewise, independent claims 17 and 23, as amended, recite similar limitations as recited in independent claim 10. As such, the applicants submit that claims 17 and 23 are not obvious and fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder. Furthermore, claims 11-13, 15, 18, 20-22, and 24-26, and 29 respectively depend, either directly or indirectly, from independent claims 10, 17, and 23 and recite additional features thereof. As such, and for at least the same reasons as discussed above, the applicants submit that these dependent claims are also not obvious and fully satisfy the requirements under 35 U.S.C. §103 and are patentable thereunder. Therefore, the applicants respectfully request that the rejections be withdrawn.

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Conclusion

Thus, the applicants submit that claims 10-13, 15-18, 20-26, and 28-29 are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Steven M. Hertzberg, Esq. or Eamon J. Wall, Esq. at (732) 530-9404 so appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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